85-1427

No.....

Supreme Court, U.S.
FILED
JAN 24 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

JOHN R. PEEPLES, JR.,

PETITIONER,

v.

UNITED STATES OF AMERICA,

RESPONDENT.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

JOHN R. PEEPLES, JR.
Petitioner, Pro Se
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prefix

QUESTION PRESENTED.

Was petitioner denied Constitutional guarantees? It is the position of the petitioner that U.S. Military Officers cannot act in a manner that is patently arbitrary or discriminatory and single out one individual from thousands of civilians attending a public open house invitation on a military base and selectively give this individual a permanent bar order as a reprisal for voicing an unpopular opinion and publicly petitioning the Congress for a redress of grievaences.

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Constitution of the United States

First Amendment 1

Fifth Amendment 2

JURISDICTION.

The judgment of the United States Court of Appeals for the Fourth Circuit was entered October 24, 1985. The issues as to which the petitioner seek this Court's review involve the construction of Title 18 U.S.C. Sec. 1382 originally referred to a· an extension of existing prohibitions on sabotage. It is the position of the petitioner that the statue does not allow arbitrary and and capricious restraint of First Amendment rights at a time and place designated for public military demonstrations when no previous bar letter had been issued. The issue was decided adversely to the petitioner in the lower court and the U.S. Court of Appeals.

The jurisdiction of this court is invoked under 28 U.S.C. 1254(1) and 2101(c), 1331, 1343, 1346 2401, 2671 and 2680. The relevant portions of the First Amendment read

as follows:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The relevant portion of the Fifth Amendment:

"No person shall be... deprived of life, liberty or property, without due process of law;"

The relevant portion of Title 18 U.S.C. Sec. 1382:

"Whoever, within the jurisdiction of the United States, goes upon any military, naval, or Coast Guard Reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation;"

QUESTION PRESENTED.

Was petitioner denied Constitutional guarantees? It is the position of the petitioner that U.S. Military Officers cannot act in a manner that is patently arbitrary or discriminatory and single out one individual from thousands of civilians attending a public open house invitation on a military base and selectively give this individual a permanent bar order as a reprisal for voicing an unpopular opinion and publicly petitioning the Congress for a redress of grievaences.

The petitioner, John Randolph Peeples, Jr., respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fourth Circuit entered on October 24,

1985.

OPINION BELOW

The Court of Appeals entered its Memorandum decision affirming the denial of Petitioner's motion to reverse the District Court's decision on October 24, 1985. A copy of the memorandum is attached as Appendix A.

STATEMENT OF THE CASE

On the day of the incident, November 2, 1980 the petitioner, John R. Peeples, Jr., visited the open house activity of Shaw Air Force Base, which was widely advertised in local newspapers, and entered when the gates were opened to an estimated 50,000 members of the general public. Peeples moved with the crowd many of whom wore political campaign buttons and had a variety of bumper stickers on their cars and slogans on their caps and tee shirts, it being two days before the general election

that year. Peeples carried a tee shirt sized sign around his neck which petitioned the Congress to investigate the Civil Air Patrol, an auxiliary of the Air Force which also had a display on the ramp, questioning activities he felt this organization condoned as being depraved and of moral turpitude. After having shown several people the bullet holes in his arm where a Colonel in the Civil Air Patrol had shot him, Peeples was surrounded by a truck load of armed military police, crowd control officials, and their commanding officers. Peeples was assaulted and bruised by these law enforcement officers of the United States of America, they arrested him, took his sign and other papers, and threw him on the tail gate of their truck as though he were a dog. All of this was done arbitrarlly, coercively, irrationally and capriciously merely because

Peeples had voiced an unpopular opinion or point of view. These military officers then had Peeples handcuffed so tightly that the skin was torn from his arms. Peeples was then delivered to and confined in the security police headquarters building where Colonel Watkins, the base commander, unsuccessfully attempted to brow beat and interrogate him. Later Peeples was given a permanent order not to reenter Shaw Air Force Base and then escorted through the gate, which was still open to members of the general public.

The trial court granted summary judgment dismissing the case in favor of the government and the Court of Appeals affirmed the decision.

REASONS FOR GRANTING THE WRIT.

It is necessary that this court grant a writ of certiorai in order to secure uniformity of decisions.

ARGUMENT.

The First Amendment requires that the arbitrary exclusion of a person or a class of person from a public forum be subjected to the strictest of scrutiny. The military had opened portions of Shaw Air Force Base to the public for purposes related to expression and thousands of people were allowed to speak out freely on any subject. Flower v. United States 407 U.S. 197 (1972). Many present wore campaign buttons, had symbolism inscribed on their shirts, jackets and hats, bumper stickers were openly displayed on vehicles and no one else was removed from the open house activity or given a permanent bar letter. Peeples was singled out because he expressed a symbolic speech urging Congress to investigate a Federal Corporation that annually reported to that Congress. The Government was trying to regulate the content

of expression without out any compelling justification. Federal employees actions were Capricious, coercive, arbitrary, irrational and not reasonably related to a legitimate purpose. Due process or military regulations were violated by issuing a bar letter with no judicially defined lifetime.

It should also be born in mind that it is unlawful if two or more persons conspire to injure, oppress, threaten or intimidate any citizen in the free exercise or engagement of any right or privilege secured to him by the Constitution of the Laws of the United States Title 42 Sec. 1985(3). Military officers should be constantly reminded of their oath of allegiance to the Constitution of the United States and of their duty as trustees of the forces of society to protect the individual from violence.

CONCLUSION

For the foregoing reasons, petitioner, John Randolph Peeples, Jr., respectfully requests that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fourth Circuit.

Respectfully submitted,

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Petitioner, Pro Se

January 20, 1986

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing petition for writ of certiorari to the United States Court of Appeals for the fourth circuit in the Supreme Court of the United States has been made upon the respondent, United States of America, by mailing a three copies thereof on this 20th day of January, 1986, in an envelope, with postage prepaid, properly addressed as follows: Glen E. Craig, Assistant United States Attorney, District of South Carolina, 1100 Laurel Street, Post Office Box 2266, Columbia, South Carolina 29202, (803)765-5483, (FTS)677-5483, also to: Solicitor General, Department of Justice, Washington, D.C. 20530.

John R. Peeples, Jr., Petitioner

SWORN TO before me this

day of January 1986

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: